

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Galaxy Communications, L.P.	)	
	)	
Application for Modification of License	)	File No. BPH-20031209ABV
Station WTKV(FM), Oswego, NY	)	Facility I.D. No. 24131

**MEMORANDUM OPINION AND ORDER**

**Adopted: April 18, 2014**

**Released: April 21, 2014**

By the Commission:

1. The Commission has before it an Application for Review (“AFR”) filed by Galaxy Syracuse Licensee LLC (“Galaxy”) on April 24, 2006.<sup>1</sup> In the AFR, Galaxy seeks review of a Media Bureau (“Bureau”) decision that denied a waiver request and dismissed an application to modify the community of license of WTKV(FM), Oswego, NY (the “Station”) due to Galaxy’s failure to comply with Section 73.3555(a)(1) of the Commission’s rules (the “Local Radio Ownership Rule”).<sup>2</sup> For the reasons set forth below, at Galaxy’s request,<sup>3</sup> we dismiss the AFR as moot.

2. When the Bureau issued the *Decision*, Galaxy held cognizable interests in nine radio stations (three AM and six FM) in the Syracuse, NY Arbitron Metro Survey Area (“Syracuse Metro”).<sup>4</sup> The Local Radio Ownership Rule allows a party to hold cognizable interests in up to seven radio stations (no more than four in the same service) in a market the size of the Syracuse Metro. Galaxy’s interests above those limits in the Syracuse Metro were grandfathered because they were allowed under a prior version of the rule, but Note 4 to Section 73.3555 states that the current version of the Local Radio

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<sup>1</sup> We also have before us an Application for Review and a Request for Stay filed jointly by Clear Channel Broadcasting Licenses, Inc., Cumulus Licensing LLC, and Multicultural Radio Broadcasting Licensee, LLC (collectively, “Joint Filers”). The Joint Filers have not shown that they have standing to seek review of the dismissal of Galaxy’s application. The Commission and the D.C. Circuit have held that the mere precedential effect of the agency’s rationale in an adjudication involving another party is not an injury sufficient to confer standing for third parties such as the Joint Filers. *See The Conference Group, LLC v. FCC*, 720 F.3d 957, 963-65 (D.C. Cir. 2013), *AT&T Corp. v. Business Telecom, Inc.*, 16 FCC Rcd 21750, 21752-53 (2001), and cases cited therein. Moreover, even if the Joint Filers could show an injury sufficient to support their claim of standing, we also reject the Joint Filers’ attempt to show good cause for not participating earlier in the proceeding. *See* Application for Review at 3; *Shareholders of Stop 26 Riverbend, Inc.*, 27 FCC Rcd 6516, 6519-21 (2012), and cases cited therein (a person who has a right to participate in a Commission adjudication cannot delay exercising that right until after the agency has acted and then expect to be allowed to participate). The Joint Filers cite no precedent to support their claim of good cause, nor do they claim any procedural anomaly that might have prevented participation below. Accordingly, we will dismiss the Joint Filers’ Application for Review pursuant to 47 U.S.C. § 155(c)(5) and 47 C.F.R. § 1.115(g). In light of our action on the Joint Filers’ Application for Review, their Request for Stay is moot and will be dismissed.

<sup>2</sup> 47 C.F.R. § 73.3555(a)(1); *see Galaxy Communications, L.P.*, Letter, 21 FCC Rcd 2994 (MB 2006) (“*Decision*”).

<sup>3</sup> Email from Sally A. Buckman, counsel to Galaxy, to Alexander Sanjenis, Media Bureau, FCC (June 20, 2013).

<sup>4</sup> *Decision*, 21 FCC Rcd at 2995.

Ownership Rule will apply when the licensee applies for a minor change to implement an approved change in an FM station's community of license.<sup>5</sup> The *Decision* dismissed such an application by Galaxy, finding that a waiver was not warranted and that Galaxy would have to comply with the Local Radio Ownership Rule in order to effectuate a change in the Station's community of license within the Syracuse Metro.<sup>6</sup>

3. Galaxy has now divested its interests in two FM stations in the Syracuse Metro, placing itself into compliance with the Local Radio Ownership Rule there.<sup>7</sup> Based on that change in cognizable ownership interests, the Bureau has approved a change in community of license for the Station.<sup>8</sup> Therefore, the AFR is moot and will be dismissed in accordance with Galaxy's request.<sup>9</sup>

4. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,<sup>10</sup> and Section 1.115(g) of the Commission's Rules,<sup>11</sup> the Application for Review filed by Galaxy Syracuse Licensee LLC IS DISMISSED.

5. IT IS FURTHER ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended, and Section 1.115(g) of the Commission's Rules, the Application for Review filed by Clear Channel Broadcasting Licenses, Inc., Cumulus Licensing LLC, and Multicultural Radio Broadcasting Licensee, LLC IS DISMISSED and their Request for Stay IS DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>5</sup> *Id.*; see 47 C.F.R. § 73.3555 Note 4.

<sup>6</sup> *Decision*, 21 FCC Rcd at 2995-96.

<sup>7</sup> Galaxy assigned the licenses of WGKV(FM), Pulaski, NY (File No. BALH-20070306ABO) and WZUN(FM), Phoenix, NY (File No. BALH-20130625ABJ) to third parties.

<sup>8</sup> See File No. BPH-20130708ACD (modification application granted on Jan. 28, 2014).

<sup>9</sup> See n. 3 *supra* (email from counsel for Galaxy requested dismissal of AFR).

<sup>10</sup> 47 U.S.C. § 155(c)(5).

<sup>11</sup> 47 C.F.R. § 1.115(g).